

CITY OF BELMONT

PLANNING COMMISSION

ACTION MINUTES

TUESDAY, MARCH 18, 2008, 7:00 PM

Chair Parsons called the meeting to order at 7:00 p.m. at One Twin Pines Lane, City Hall Council Chambers.

1. ROLL CALL

Commissioners Present: Parsons, Frautschi, Horton, Mayer, McKenzie, Mercer, Reed
Commissioners Absent: None

Staff Present: Community Development Director de Melo (CDD), Senior Planner DiDonato (SP),
Assistant Planner Walker (AP), Acting City Attorney Noeske (ACA), Recording Secretary Flores (RS)

Chair Parsons welcomed new Planning Commissioner Eric Reed.

2. AGENDA AMENDMENTS – Commissioner Horton asked that Item 7C be moved to the beginning of Item 7. Amendment accepted by consent.

3. COMMUNITY FORUM (Public Comments) - None

4. CONSENT CALENDAR

4A. Minutes of February 19, 2008

RS Flores noted that she had received several grammar corrections from Vice Chair Frautschi, and Commissioner McKenzie asked that on page 6, second paragraph under "Other Updates," it be noted that Commissioner McKenzie, not Commissioner Mayer, asked for an update on the 101 Landscaping. She will make the changes.

MOTION: By Vice Chair Frautschi, seconded by Commissioner McKenzie to approve the Minutes of Tuesday, February 19, 2008 with the indicated corrections.

Ayes: Frautschi, McKenzie, Mayer, Mercer, Parsons
Noes: None
Abstain: Horton, Reed

Motion passed 5/0/2

5. OLD BUSINESS

5A. 2612 Hallmark Drive – Grading Plan

AP Walker summarized the staff memorandum, noting that a revised Resolution of Approval had been provided to the Commission prior to the meeting. Staff recommended adoption of the revised Resolution and the Final Grading Plan.

Commissioner Mercer asked if there were other projects in Belmont that set a precedent for the volume of fill as opposed to cut. AP Walker replied that there had not been any significant net imports of fill.

Vice Chair Frautschi clarified with AP Walker some oversights he had found in the January Resolution. Staff will correct: 1) The omission of the grading finding; 2) Item I.A.8. will remain because it provides the catch as to why they are reviewing the grading plan at this meeting; 3) The statement on the deed on the property will remain but will no longer be applicable; 4) Since they do not have a sewer lateral, the applicant will not be required to film a sewer lateral as required on page 11.

Ken Lebovitz, resident of Soho Circle, spoke in opposition to the amount of fill required, citing noise, safety, dirt and probable damage to the new street.

Commissioner Mercer stated that her position on the finding regarding fill had not changed. The volume of fill is completely unprecedented in Belmont and is not comparable to previous projects that required a large volume of cut. She had prepared her own cross section, which illustrated that the floor at 681' elevation is 13' above the original grade, and that the garage is sitting on 9' of fill. She felt that the design is not properly nested into the hillside and that they are using fill to compensate for that, doing some engineering that is unprecedented in the Belmont hills. She still could not make the finding on those issues.

Vice Chair Frautschi stated that Finding B is the finding about balance, which basically says that the overall site and building plans achieve an acceptable balance among bulk, grading, hardscape and tree removal. Quoting from the staff report, he read that "the rear or west side elevations have not been stepped down the hill, nor has the upper level been stepped in from the lower level." These are two design elements that are generally used to mitigate building bulk on the sloped lot, and while they have already ruled on building bulk, he feels it is a cumulative thing and that bulk and grading are all tied in together. Quoting again from the staff report, he read that "the total amount of hardscape is generally more than has been recently permitted for other smaller single-lot family design review projects." Ideally, one would hope that whatever you cut you could balance on your lot so as to not have to bring in so much fill. He concurred with Commissioner Mercer that this design was not an attempt to balance the cut and fill – it's a project that imposes this building on the site. He felt that the applicant or the applicant's consultant or architect wanted to have the house at the highest level so they could get the best view instead of making the building fit into the site. For those reasons he could not support the grading plan.

Commissioner Horton asked if they were back-tracking, since they had already completed a design review and it passed. Conditions were approved and they are now revisiting the grading plan because it has changed from Geofoam to dirt fill. She wondered why they were discussing Single-Family Design Review again.

CDD de Melo explained that in the past they have looked at optional components of a project after they approved it, but this is one of the first times that they have looked at a final grading plan for a project. Their scope of discussion related to that plan is more narrow; they don't have the tool of looking at the eight Single-Family Design Review findings again. He understood their concerns about tying bulk and grading and balancing but what they are left with is whether the proposed grading plan is appropriate for this site. The table in the staff report describes nine other properties that have had earthwork associated with their project, and while this project may be one of the nine properties that has the most fill being brought onto the site, there are other properties that have had earthwork of a greater degree. A property that has 700 cubic yards of cut still needs to use a street to get off that site. Staff believed that the earthwork quantity in total for this project was not unreasonable. He concurred that there is more fill than what they normally see but the total earthwork quantity was where staff based their decision that this grading plan was not inconsistent for other single-family projects.

Commissioner Mayer asked if there are any standards in the code to determine what constitutes a reasonable cut or fill, and what does not. CDD de Melo responded that when the design review ordinance was amended some of the grading issues were melded into the findings. The findings that were reviewed for this project back in January had pieces of grading plan issues embedded within it. When they look at this grading plan there is no specific standard or number that serves as a guide to tell them whether it is appropriate or not appropriate or unreasonable or reasonable – they have to look at the projects on a case-by-case basis. The table in the staff report guides them as to whether or not this was an appropriate amount of cut and fill. Staff did not believe it was inconsistent. The Commission has to look at the project and determine if it is an appropriate amount given the size of the dwelling, the size of the lot, the slope of the lot, and the project in and of itself.

Commissioner Mayer asked how the fact that the original approval was based on a different kind of fill ties into the discussion. CDD de Melo responded that the Geofoam was proposed in direct response to the concern about the number of truck trips. So while the Geofoam would have been a better alternative to cut down on truck trips there was a profound concern about that material in a residential setting. Condition I.8. bound this project to come back to the Commission to look at the grading plan. The grading plan has not changed. The project originally was proposing natural fill; it has gone from one to another and back to the original. Commissioner Mayer concluded that in his opinion the concept on whether the home is using proper cut in building itself into the hillside is really not the issue here because they had already approved the concept of the home in its present configuration. He added that any construction project will have trucks and a certain amount of noise and inconvenience, whether it's cut or fill, and everyone has to deal with that when construction occurs.

Commissioner McKenzie agreed with the statements of the last two Commissioners in that they have approved the design, and the elevations of how the house is sitting on the lot has not changed. He felt that this is a downhill sloping building site and the most practical way to approach design on this property is to have more fill or at least as much fill as cut, and that they would be misleading themselves and the applicant if they start going back to predesign approval at this stage.

Chair Parsons commented that his concerns were not so much about the trucks but the safety and stability of the site. He asked staff what would happen if the Commission were to deny the fill. CDD de Melo responded that there is an appeal right. Staff would bring a resolution of denial to the next meeting for the Commission's approval, and then the applicant would have ten days to appeal that decision to the City Council. Chair Parsons asked if another option would be that they direct staff to go back to the applicant to remove some of the fill, using decks instead to reduce the amount of fill. CDD de Melo replied that that is an option but that they would probably want to hear from the applicant and/or property owner before making their decision.

Commissioner Mercer wondered rhetorically if this project would have been approved, as is two months ago, if the Geofoam had never been brought up. It was approved in light of the Geofoam. If so, she wondered why there was the big effort to make a condition that the Geofoam needed to be approved or come back to the Commission. If it is approved with or without the Geofoam, she questioned why they even asked that it come back.

Chair Parsons stated that he assumed the new Commissioner would abstain from voting since he had not been involved in the project, and asked for clarification of the procedure if the grading plan receives a 3/3 vote. CDD de Melo responded that it is denied by default – they need a majority vote for approval. A denial resolution for the grading plan would then be brought back to the Commission, the applicant would have the appeal right associated with the plan but would still have a design review approval.

MOTION: By Commissioner McKenzie, seconded by Commissioner Horton, to adopt the Resolution approving a Final Grading Plan for 2612 Hallmark Drive (Appl. No. 2007-0018).

Ayes: McKenzie, Horton, Mayer, Parsons

Noes: Mercer, Frautschi

Abstain: Reed

Motion passed 4/2/1

Speaking for the benefit of the owners of the subject property, Chair Parsons reprimanded the architect and consultant for: 1) the time required to process this project; 2) inaccuracy of drawings and cut and fill numbers; 3) bullying the staff and Commissioners; 4) being disrespectful at meetings; 4) making personal attacks on Commissioners. He suggested that if they ever have another project they find more competent help.

Chair Parsons noted that this item may be appealed to City Council within 10 calendar days.

5B. 210 Alameda de las Pulgas – Request for Extension of Approval

AP Walker summarized the staff memorandum, recommending approval of the Resolution granting the extension to November 21, 2008, subject to the original conditions.

Commissioner Mercer asked if any of the conditions had been fulfilled. AP Walker replied that nothing has happened in the last year.

MOTION: By Vice Chair Frautschi, seconded by Commissioner McKenzie, adopting the Resolution approving extension of a Single-Family Design Review for 210 Alameda de las Pulgas (Appl. No. 2008-0009), with Exhibit A, Conditions of Project Approval.

Ayes: Frautschi, McKenzie, Horton, Mayer, Mercer, Reed, Parsons
Noes: None

Motion passed 7/0

Chair Parsons noted that this item may be appealed within 10 calendar days.

6. PUBLIC HEARINGS:

6A. PUBLIC HEARING – 1007 Muir Way (Continued from 9/18/07 PC Meeting)

To consider a Single Family Design Review for a 1,339 square-foot addition to the existing 1,940 square-foot single-family residence for a total of 3,279 square feet that is below than the maximum permitted 3,429 square feet for this site.

Application No.: PA 06-0098; APN: 043-144-170; Zoned: R-1B (Single Family Residential)

CEQA Status: Categorical Exemption per Section 15303

Applicant: Naji Rajaile

Owner(s): Milad Dalo

Project Planner: Damon DiDonato (650) 637-2908

SP DiDonato summarized the staff memorandum, recommending approval subject to the conditions included in the staff report. He added that Vice Chair Frautschi had contacted staff that day with some suggested modifications to the Conditions of Approval, and those modifications had been placed on the dais. The owner of the property had been contacted and seemed willing to abide by the additional conditions.

Commissioner Mayer asked if there was an irrigation plan. SP DiDonato responded that they did indicate irrigation on the Landscape Plan, just indicating the nozzles but not control boxes.

Referring to line 3 of page 6 of the staff report, Vice Chair Frautschi asked if it continues to be true that the proposed landscaping is not native. SP DiDonato confirmed that that is correct but that it seems consistent with the single-family setting.

Commissioner Mercer's question regarding drainage from the existing concrete side yards was referred to the applicant.

Naji Rajaile, applicant, stated that there is no existing drainage; that is one of the reasons they are going to be removing all of the hardscape between the sides and property lines. It will be replaced with pervious material. Vice Chair Frautschi asked for clarification of what hardscape will be removed. Mr. Rajaile confirmed that they are planning to remove the paving on the left and right sides, and all in the rear yard except for a 12' x 12' patio. The hardscape will be reduced by 3.9%.

Chair Parsons opened the Public Hearing. No one came forward to speak.

MOTION: By Vice Chair Frautschi, seconded by Commissioner Mayer, to close the Public Hearing. Motion passed 7/0 by a show of hands.

Commissioners Horton, Mayer, McKenzie and Mercer were all pleased with the re-design and the reduction in hardscape, and were pleased that the applicant followed the recommendations of the Planning Commission.

Vice Chair Frautschi concurred, and suggested that they think about expanding the window that is centered in the front of the house in order to get more light into the staircase. He felt that the landscape plan was lacking and would like to see more native species plants and an irrigation plan.

Chair Parson thanked the applicant for heeding the Commission's advice. His only concern was with the landscape plan, suggesting that the Jasmine variety they have selected on each side of the walk be changed to a shrub. He could approve the project with the caveat that the landscape plan come back for the Commission's approval.

MOTION: By Commissioner Mercer, seconded by Commissioner Mayer, to adopt the Resolution approving a Single-Family Design Review for 1007 Muir Way (Appl. No. 2006-0098), with the added condition that a landscape plan be prepared showing greater use of native species, an irrigation plan and removal of the concrete in the side yards, and including the revised conditions suggested by Vice Chair Frautschi.

Chair Parsons added the suggestion that they might want to move the tree in front off the center of the window to preserve their view.

Ayes: Mercer, Mayer, Horton, McKenzie, Reed, Frautschi, Parsons
Noes: None

Motion passed 7/0

Chair Parsons noted that this item may be appealed to City Council within 10 calendar days.

6B. PUBLIC HEARING – 1906 Lyon Avenue (Continued from 9/18/07 PC Meeting)

To consider a Conditional Use Permit, Variance and Design Review to install a T-mobile Wireless Telecommunications facility, consisting of six (6) panel antennas attached to the existing Mid Peninsula Water District water tanks, and four detached equipment cabinets. The antennas would extend six feet, six inches above the top of the water tank.

Appl. No. 2007-0006; APN: 044-051-140; Zoned: R-1B (Single Family Residential)

CEQA Status: Recommended Categorical Exemption per Section 15303, Class 3(e)

Applicant: Jason Osborne on behalf of T-Mobile

Owner: Mid Peninsula Water District

Contact Planner: Jennifer Walker, (650) 595-7453

AP Walker summarized the staff memorandum, recommending approval with the conditions of approval attached.

Staff responded to Commissioners' questions as follows:

- The drop-off on the back side of the shed is 6' and Building Division would require a railing above it.
- Building Condition 2, page 2, calls for posting of contact information and phone numbers for noise complaints. CDD de Melo stated that they would look at the resolution and conditions of approval for a recent project on Ralston Avenue that distinguishes between construction and operational activities to make sure they are consistent.
- T-Mobile's plans indicate that existing trees will be replaced by T-Mobile as required, but the plans indicate they are not removing any trees. This discrepancy will be resolved.
- The 6' high wall that is visible to the public needs to be architecturally treated; it cannot be a concrete block wall.
- Noise standards that are in the noise ordinance were e-mailed to the applicant.
- The applicant can be asked what they plan to do with the cut from the hillside where they are putting the small building. Commissioner Horton noted that it is not the applicant's site on which to spread it around.
- Replacement of deficient shrubs in the area facing across the street and new landscaping around the building should be included in a final landscape plan.

Chair Parsons asked the City Attorney and staff to explain the facts of the FCC rulings regarding the Commission's ability to disapprove a wireless communications project with regard to electromagnetic or microwave radiation. ACA Noeske stated that Congress has empowered the FCC to govern and regulate the field of telecommunications and part of that is the radio frequency emissions coming from these units. Municipalities do not have the authority to either approve or deny an application like this based on

the radio frequency emissions because the FCC pre-empts the field; it is governed and regulated by Federal law. CDD de Melo added that they cannot legislate the health effects, and the radio frequency report associated with this installation indicated that it would be less than 1% of the legal limit afforded by the FCC. Therefore, the domain of the Commission's review focuses on the aesthetics of the antennas, equipment and shelters and whether they can make the findings associated with the aesthetics.

Commissioner Mayer asked if that means they cannot consider the issue of ambient noise. CDD de Melo responded that if there is some piece of equipment that would create an excessive amount of noise outside the allowance of our noise ordinance they can look at that. If it does not exceed the decibel limits imposed by the noise ordinance or if that noise in and of itself would not interfere with the reasonable sensibilities of persons living adjacent to or near the area, then the noise ordinance would also not provide relief if it is just something that blends into the background.

Jason Osborn, representing T-Mobile, thanked the Commission and staff for hearing the item again, and answered questions from the Commission as follows:

- There is not a constant noise level associated with these antennas. The only noise is from the AC units. By putting in the shelter to minimize the visual blight, there are air conditioning units on the shelter, but those fall below the noise ordinance and the ambient noise level.
- There is the potential that reduction of the antennas from 15' to 7' could compromise the coverage of the intended application and that they could be asking for another facility somewhere else. All of the sights have to "talk to each other" and at the proposed height they do continue to do that. If they were to go any lower they would compromise the integrity of the network and could potentially have to bring in another site. 8' is essentially the threshold for maximum coverage for T-Mobile's network.
- Regarding additional landscape requirements on the west side of the property, at the February 26th neighborhood meeting T-Mobile agreed to add additional landscaping around the back side of the cabinet (left side of the actual equipment) to shield the adjacent neighbor's views from his bedroom. Mr. Osborn did not know the species of the planned shrub/tree but stated that it would be 8' when fully grown.
- He estimated that they are only removing between 50 to 100 cubic yards of dirt, which could either be hauled off or placement on the property would be discussed with the Water District.
- The cut will be about 6' high, and they would be more than amenable to adding a safety rail around it, which could be covered by shrubs.
- The building is a modular building with stucco finish, which will be painted to match the existing buildings.
- He did not know who planted the saplings on the site.

Chair Parsons opened the Public Hearing.

David King, resident of Mezes Avenue, opposed the project, referring to the "visual blight" the antennas would be from his property. He added that he had talked to people in Sterling Downs, where T-Mobile is proposing to send the signal from these new antennas, and was told that they have no problem whatsoever with reception of various manufacturers' cell phone equipment at the present time. He also noted that the Water District would receive approximately \$2500 a month for the antennas and wondered what is in it for the City of Belmont.

Robert Miller, resident of Mezes Avenue, opposed the project, pointing out that the maximum allowable square footage for that zoning area is 3500 sq.ft., it is now at 4800 sq.ft., and now they are talking about adding another 250 sq.ft. structure, and questioned if they had been granted a Variance for that addition. He added that they got rid of the 5' setbacks and lost 4-5 parking spaces, and questioned if they had gotten permits for that. He also questioned whether they have checked alternative sites and demonstrated to the City that there are no other feasible locations within the City.

Christopher Wright, resident of Lyon Avenue, opposed the project based on the belief that cell towers provide some risk to health and on the aesthetics, which translates to lowered property values. The Commission's mandate is to the citizens of Belmont.

Christopher Varga, resident of Lyon Avenue, spoke in opposition, wondering why they are even considering putting very ugly towers on top of an already ugly water tower. He felt that the Commission could turn down the proposal based on City regulations and that the tower would not provide a benefit to the neighborhood, and wondered why the applicant even considered this site. He cited a ten-year study from Orange County, Florida that found a 2% decrease in property value for all houses in a 600' radius of the cell

towers. He asked the Commission to consider residents over the needs of the corporations, especially since this installation is not ideally going to serve the neighborhood.

Rick Pauli, resident of Lyon Avenue, was called to the podium but did not come forward to speak.

Cecil Nelson, Lyon Avenue, spoke in opposition to the project, citing the decrease in open space, which currently a habitat for deer and other small animals, and was concerned that the constant noise might interfere with their breeding habits, etc. He reminded the Commission that this installation would bring industry into a residential neighborhood, and that the footprint is already enormous.

Claudia Diaz, resident of Bayview Avenue, was opposed to the project, noting that she is a realtor and believes it would negatively impact property values by 12-15%, and that it would affect the "old world charm" that Belmont offers. Due to the perception of a health hazard, buyers would want to see other areas. She asked Commissioners to consider what they would do if it was next to their house.

Matthew Kerby, resident of Bayview Avenue, introduced himself as a registered professional engineer familiar with the technical aspects of this project. He distributed photos to show that the view of 3 houses would be directly impacted by the proposed tower. It would be better for them to have it up the hill. He mentioned a company in Oceanside, CA that makes artificial trees that would disguise the towers and better blend into the hillside. He was also concerned that once they have this site, there would likely be others wanting to move in. He suggested that monthly income be used to fund a visual improvement district for local areas, that California PUC Rule 20, which discusses taking undergrounding power lines, so that rent from these towers would end up funding improving the general area. Regarding the trees that were planted, he stated that the Water District had planted pittosporum and had put in a drip irrigation system, but the plants did not grow successfully. He had asked them to plant some Coastal Oaks, which they did.

Joe Iffla, resident of Mezes Avenue, spoke in opposition to the project. He felt that the neighbors' concerns are valid and had not been addressed by T-Mobile, and that all of the things they had heard are negatives. He asked that Commissioners consider whether they could vote for this project if were to be constructed in their front yard, and that they do the right thing and deny their request to use the neighborhood as a transmitting platform.

Ali Haghnegahdar, T Mobile Representative, distributed material depicting a "drive test" to show the extended indoor coverage if the antenna is 6' higher than the water tower.

MOTION: By Vice Chair Frautschi, seconded by Commissioner Horton, to close the Public Hearing. Motion passed 7/0 by a show of hands.

Commissioners made the following points:

Vice Chair Frautschi:

- Complimented Mr. King on his beautiful house and thanked the neighbors for coming to the meeting.
- Cell towers are the most highly controlled and regulated thing that they look at. Because it is a variance, they have 22 findings that we have to be met before they can approve a cell tower project.
- Read Finding e): "The granting of a variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity..."
- It is not hard to see that there is an effect on property values. Is the neighborhood expected to take the full brunt of this to benefit the City at large?
- Other cell sites did not end with one. For him, it ends here or they have to come up with better solutions.
- He could not support the project as he could not find for Finding e). If the neighbors say it's detrimental it's detrimental.

Commissioner Mercer:

- Concurred with Vice Chair Frautschi.
- They have approved antennas in the past and have been very careful of the aesthetics, but in general they are considered a necessary evil.
- She did not think it appropriate to put it on top of the water tower – to be granting a variance upon a variance
- Concerned about proliferation because once we have one it would be unfair to deny equal opportunity to

others.

- Looking more carefully at the maps, it appears that the beneficiaries are on the other side of the ridge to the east, on the El Camino Real side of the hill. Why do they have to put a tower in a scenic place in order to provide service for the more commercial areas on the other side of the hill?
- Felt she did not have all the needed information to decide whether there could be an alternative.

Commissioner McKenzie:

- Has been concerned about the proliferation of cell towers for quite some time. Because of the topography, Belmont could be saturated with cell towers.
- Did not think the City has an intelligent approach to guiding and controlling and placing where they are going to be.
- It's time for the cell companies to cooperate with other tower services – more than one company could use the same facility.
- He believes they are headed in a dangerous direction and one that the community will be the worse for.
- Proposed that they have a moratorium on new cell phone towers until they have a program and strategy for how to accommodate them.

Commissioner Horton:

- Everyone wants to be on top of the hill – the water company, people want to live on top of the hill for the better views, and cell sites want to be on top of the hill because they have a better transmission line of sight.
- If this application were at a water district site where there are already cell facilities, she would have voted to approve; however, she could not make all of the findings.
- If they vote to put this cell site on this water tower there will be at least 3 more cell companies that will come and want to be on that tower and they will be approved.
- She did not see enough benefit in the coverage map to vote for it.

Commissioner Mayer:

- He recalled that at the last meeting there was talk about an alternative site which would not be disruptive to a particular neighborhood. He did not feel that T-Mobile has not shown that there is not a single alternative.
- He noted that everybody wants the service but nobody wants to take the consequence of having that service if it is a matter which they feel disrupts their personal comfort and habitat. He was torn as to where to draw the line between necessity and preference and comfort.
- He was very sympathetic to the neighbors, and for that reason felt that they should require absolute proof that there is no possible alternative location. If that could be shown, perhaps he could look at it in a different light.

Commissioner Reed:

- Looking at the drive-by test that was handed out, he did not see much difference in the coverage benefit.
- There were streets that had not been tested, such as the street between Monroe and La Casa and Belmonte. He concurred with previous comments in that he did not see that the benefit necessarily outweighs the cost.

Chair Parsons:

- Wished that neighbors would come out and express their feelings on all the projects that come before the Commission. It gives the Commission an opportunity to get a better feel for their town and how people feel about issues.
- He would like to see a copy of the ten-year study on the loss of property values mentioned by an earlier speaker.
- He believed there would be a loss in property values in the neighborhood and that the Commission should not put that on their neighbors to benefit private industry.
- Suggested that perhaps Belmont needs a cell site master plan. The technology is changing every day – maybe they should step back and look at this and see what the new technology might offer that is going to change what is installed in Belmont.
- He found it offensive that the water district would make money off of this project and the City has to bear the brunt. He asked that the speaker who mentioned the PUC talk to CDD de Melo.
- The one finding he could not make has to do with the potential for financial loss.

Mr. Osborne, T Mobile Representative returned to the podium to respond to the Commission's discussion. He stated that his company clearly needs the site and that he understood the neighbors' concerns about the antennas protruding above the water tank. He asked for the opportunity to redesign and put the antennas below the water tank and to run additional drive tests.

Responding to Commissioner Mayer's question relative to a previous discussion about an alternative site that would require additional expense on the part of T-Mobile, Mr. Osborn stated that he did not have any information about a viable alternative site.

CDD de Melo reminded the Commission that the 1996 Telecommunications Act does not allow cities to consider the disapproved these towers if there is an issue related to property values. He added that they are not bound to approve a variance for this project, and suggested that they focus on Finding b) rather than Finding e). Also, the applicant had graciously asked for the opportunity to redesign this project to reduce the height of the antennas to not go above the requisite height limit for the district. This might give them and opportunity to answer any other questions raised by the neighbors.

After discussion, CDD de Melo suggested that they continue the matter to address the question of an alternative site and if it is conclusively proven that an alternative site is not feasible, he asked if the Commission would then be willing to consider a revised project that reduces the height of the antennas to not be above the height limit for the district? Vice Chair Frautschi referred to another Finding e) on page 6 of 8 that speaks about the character of the neighborhood; in the Design Review process he would not be able to find for that finding on the site currently under discussion.

Commissioner Mercer asked if an application for an alternate site would require a new application rather than a continuance. CDD de Melo suggested if they were to explore an alternative site staff could work with them under the current application but if they end up looking at an alternative they would be looking at a different project.

MOTION: By Vice Chair Frautschi, seconded by Chair Parsons, to adopt a resolution denying a Conditional Use Permit, Variance and Design Review at 1909 Lyon Avenue (Appl. PA 2007-0006) with Exhibit A, Conditions of Project Approval. Denial of the Design Review is based on Finding e) in that if the applicant were allowed to proceed with this project it would affect the character of the neighborhood in an adverse way. Denial of the Variance is based on Finding b) in that there are exceptional or extraordinary circumstances or conditions regarding this property that have to be taken into consideration if a variance were issued.

CDD de Melo suggested that Vice Chair Frautschi could also indicate that he finds no extraordinary or exceptional circumstances associated with this property to warrant the granting of a Variance. Vice Chair Frautschi added that he was tempted to add Finding d) the granting of a variance will constitute a grant of special privilege inconsistent with the limitations that we would normally see on a property, but since there is no current cell site there he does not want to see a cell site there, and the neighbors do not want to see a cell site there.

Ayes: Frautschi

Noes: Horton, Mayer, McKenzie, Mercer, Reed, Parsons

Motion failed 1/6

MOTION: By Commissioner Horton, seconded by Commissioner Mayer, to continue the application for a Conditional Use Permit, Variance and Design Review at 1909 Lyon Avenue (No. PA 2007-0006).

Commissioner Horton: In order to approve this we have to approve a Conditional Use Permit, we have to meet a finding that there is no other location on the site or any other location for the proposed antenna that would result in a less conspicuous or more aesthetically pleasing installation while still providing reasonable signal access. So while we've seen an antenna that is 8' high and we've seen it 6' high we still can't make the aesthetic finding and the Variance so we need more studies, we probably need proof that there is no other location available that would benefit in the same manner.

Ayes: Horton, Mayer, McKenzie, Mercer, Reed, Parsons

Vice Chair Frautschi stated that he did not understand the motion. "Are you saying that we're continuing it to look at an alternate site?" CDD de Melo responded "yes." Vice Chair Frautschi then added that he is voting "no" because he believes when you have a sentence you have to put a period at the end of a sentence and he wanted the applicant to be absolutely clear from him that he will not vote for a project on this site.

Noes: Frautschi

Motion passed 6/1

7. REPORTS, STUDIES AND UPDATES

Chair Parsons called a 2-minute recess. Commissioners Horton and Mercer recused themselves from discussion of the following item and left the room.

CDD de Melo reported as follows:

7C. NDNU (Koret) Athletic Field

He had met with acoustical consultant that day to go over the scope of the studies to be taken from the property as well as at properties to the north and south of the field. Measurements will be taken at lacrosse games scheduled for March 29 and April 13. They will also look at the findings from the two opinion letters that have been prepared by the University. The second component to address is the CUP and whether some change can be made to the wording of the conditions of approval. The NDNU Task Force has taken a bit of a hiatus until the acoustics study results are released and recommendations and findings given to the Task Force and the Commission. He confirmed that they will be taking measurements at two residences on Chula Vista and one fronting on Ralston, as well as a property on South View or College View because they want to be fair to determine if there are any sound travel issues northward as well as southward.

Commissioners Horton and Mercer returned to the dais.

7A. 500 Block – El Camino Real (East Side)

The City Attorney has had discussions with the property owner regarding the cutting of approximately 36 trees, some of which were of a protected size. The City now needs to determine whether to file criminal charges against the property owner, who had indicated that there is a potential to work out a payment plan for the \$33,000 to \$43,000 in fines. The City would like to work on getting the issue addressed via planting of trees and payment of fees.

7B. Motel 6 – 1101 Shoreway Road

An incident had transpired at the motel about 10 days previously, which may or may not have been caused directly by the fault of the motel. He asked if the Commission wanted a more detailed report. Chair Parsons responded that his report was adequate for now.

7D. Mid-Peninsula Water District - Folger Drive

Vice Chair Frautschi excused himself from the meeting. CDD de Melo had met with a representative from MPWD on March 7th, at which time it was agreed that they will prepare a revised landscape plan after they review the video of the Commission's October 2007 meeting. The item will be included on a Commission agenda as soon as the landscape plan becomes available.

7E. Charles Armstrong School – 1405 Solana Drive

Vice Chair Frautschi returned to the dais. Staff will be meeting with the CAS Board and neighbors on April 15th to discuss some of the issues that transpired last year relative to locking and unlocking of the gate to McDougal Park, and to determine if there are any outstanding issues regarding landscaping. The Board has indicated that they are willing to work on a solution to the issues. He added that the Neighborhood First group and Parks and Recreation Commission have been and will continue to be included in discussions.

7F. Ralston/US-101 Landscape Project

Has met with CalTrans landscape architects to review concept plan improvements for the entire area, but plans had not yet been received.

7G. Distribution of March 11, 2008 Priority Calendar Report – City Council

After discussion it was agreed that this item will be placed on the Commission's April 1 agenda, at which time they will be able to rank the above-the-line Planning Commission items for submittal to Council for their 4/8 meeting.

Additional Items

Regarding the Priority Calendar, Vice Chair Frautschi stated that of the 85 items currently on the Priority Calendar, 34 originated with Planning Commissioners.

To update the Commission on actions of the Council, Vice Chair Frautschi reported that it looks like Council will be coming to the Planning Commission for input on the proposed decorative street lights and that they are proposing a study to look at forming a Youth Commission.

Chair Parsons announced that due to upcoming elections, the Planning Commission will be meeting on Thursday, June 5th and Thursday, November 6th.

8. CITY COUNCIL MEETING OF TUESDAY, MARCH 25, 2008

Liaison: Commissioner Mercer

Alternate Liaison: Commissioner McKenzie

Commissioner Mercer stated that she will not be able to attend the meeting but will watch it on television, and suggested that perhaps Commissioner McKenzie should attend if they want somebody at the meeting.

9. ADJOURNMENT:

The meeting was adjourned at 9:45 p.m. to a Regular Planning Commission Meeting on Tuesday, April 1, 2008 at 7:00 p.m. in Belmont City Hall.

Carlos de Melo
Planning Commission Secretary

CD's of Planning Commission Meetings are available in the
Community Development Department.

Please call (650) 595-7417 to schedule an appointment.